

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

HERBERT LOPEZ,

ID # 01824978,

Petitioner,

vs.

LORIE DAVIS, Director,

Texas Department of Criminal

Justice, Correctional Institutions Division,

Respondent.

No. 3:15-CV-3856-N (BH)

Referred to U.S. Magistrate Judge

**RECOMMENDATION REGARDING REQUEST TO PROCEED
IN FORMA PAUPERIS ON APPEAL**

Pursuant to *Amended Miscellaneous Order No. 6* (adopted by *Special Order No. 2-59* on May 5, 2005), requests to proceed *in forma pauperis* are automatically referred. Before the Court is the petitioner's motion to proceed *in forma pauperis* on appeal and a certificate of inmate trust account, received May 15, 2018 (doc. 21).

- (X) The motion for leave to proceed *in forma pauperis* on appeal should be DENIED for the following reasons:
- (X) The petitioner is not a pauper. The certificate of inmate trust account shows that he has \$1,162.41 in funds. Based on this information, the Court should conclude that the petitioner will not suffer undue financial hardship after payment of the \$505.00 filing fee. *See Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir. 1988).

If the Court denies the request to proceed *in forma pauperis* on appeal, the defendant may challenge the denial by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within thirty days after service of the notice required by Fed. R. App. P. 24(a)(4). *See* Fed. R. App. P. 24(a)(5).

SIGNED this 16th day of May, 2018.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE